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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,068	01/23/2001	Robin Gwen Mason	G401	9234
7590 02/24/2006				
Richard W. Goldstein 2071 Clove Road Staten Island, NY 10304		EXAMINER SHERMAN, STEPHEN G		
		ART UNIT PAPER NUMBER		
		2674		

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/767,068

Applicant(s)

MASON, ROBIN GWEN

Examiner

Stephen G. Sherman

Art Unit

2674

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: outside surface 18S. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (JP 2000-259345 A) in view of Cosko (DE 20010493 U1).

Regarding claim 1, Sato discloses a computer mouse comprising:

a housing having an upper surface and a bottom surface (Drawing 1, mouse M has an upper surface and a bottom surface.);

a tracking device, having an outside surface, for determining movement of the housing upon a horizontal operating surface (Drawing 1, mouse M would have a tracking device for determining movement of the housing as shown by the arrow in the drawing and as mentioned in paragraph [0006] the mouse would have to be equipped with a tracking device in order to detect the migration actuation.);

a fragrance emitting means (Drawing 2, aroma object 9) being in communication with the tracking device such that movement of the mouse causes fragrance to be emitted (Paragraph [0006] mentions that the aroma is held in the aroma object and is released with migration actuation of the mouse M.).

Sato fails to teach of a fragrance emitting means situated inside the housing.

Cosko discloses of a fragrance emitting means situated inside of a computer mouse shaped dispenser (Drawing 1, item 10 is a mouse shaped housing where dispenser 18 is located.).

Therefore it would have been obvious to "one of ordinary skill" in the art at the time the invention was made to locate the fragrance emitting means taught by Sato inside of the housing for the mouse as taught by Cosko in order to make the mouse fragrance emitting means simple and easier to operate.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (JP 2000-259345 A) in view of Cosko (DE 20010493 U1) and further in view of Tamiya (JP 11-282621 A).

Regarding claim 2, Sato and Cosko disclose the computer mouse as recited in claim 1.

Sato and Cosko fail to disclose wherein the tracking device is a ball having an outside surface, and further comprising a layer of thin rupturable sacs covering the outside surface of the tracking device.

Tamiya discloses a computer mouse pad comprising a layer of thin rupturable sacs (Drawing 1 (a) shows a mouse pad with a scented layer 3 containing rupturable microcapsules 5 located within the layer.).

Therefore it would have been obvious to "one of ordinary skill" in the art at the time the invention was made to use the idea of having rupturable microcapsules as taught by Tamiya as the fragrance emitting means located within the housing taught by the combination of Sato and Cosko such that the rupturable microcapsules cover the surface of the tracking device to cause the breaking of the microcapsules with movement of the mouse in order to have an effective ability to maintain an aromatic stability over a long period of time.

Regarding claim 3, Sato, Cosko and Tamiya disclose the computer mouse as recited in claim 2.

Tamiya also discloses wherein the thin sacs are filled with scented particles, said particles are released when pressure is applied to the sacs which cause the sacs to rupture (Paragraph [0013] states that the microcapsules are destroyed by the thrust, i.e. pressure, of the mouse on the capsule.).

Allowable Subject Matter

6. Claims 3-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for indicating allowable subject matter is the inclusion of the fragrance chamber located within the housing coupled to the tracking device, which is not found singularly or in combination in the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen G. Sherman whose telephone number is (571) 272-2941. The examiner can normally be reached on M-F, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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13 February 2006

AMR A. AWAD
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Amr A. Awad", written over the printed name and title.